

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Wachendorff-Neumann *et al.*

Appl. No.: 10/518,742

§ 371(c) Date: July 26, 2005

**For: Fungicidal Active Substance  
Combinations**

Confirmation No.: 3030

Art Unit: 1615

Examiner: LEVY, Neil S.

Atty. Docket: 2400.0250001/RWE/L-Z

**Third Supplemental Information Disclosure Statement**

***Mail Stop Amendment***

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

Listed on accompanying IDS Forms are documents that may be considered material to the patentability of this application as defined in 37 C.F.R. §1.56, and in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.97 and 1.98. The numbering on this Third Supplemental Information Disclosure Statement is a continuation of the numbering in Applicants' Second Supplemental Information Disclosure Statement filed on August 31, 2009, in connection with the above-captioned application.

Where the publication date of a listed document does not provide a month of publication, the year of publication of the listed document is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the month of publication is not in issue. Applicants have listed publication dates on the attached IDS Forms based on information presently available to the undersigned. However, the listed publication

dates should not be construed as an admission that the information was actually published on the date indicated.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith.

Filing under 37 C.F.R. § 1.97(c). This Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection, or Notice of Allowance, or an action that otherwise closes prosecution in the application. Attached is our PTO-2038 Credit Card Payment Form in the amount of \$180.00 in payment of the fee under 37 C.F.R. § 1.17(p).

A concise explanation of the relevance of the non-English language documents **FP3, FP5 and FP6** appears below in accordance with 37 C.F.R. § 1.98(a)(3).

Document **FP3**, EP 0 793 657 B1, is in the German language. U.S. Patent No. 5,789,430, which was cited as document **AA** submitted in the Information Disclosure

Statement by Applicant filed December 17, 2004, is believed to be the English language equivalent of document FP3.

Document **FP5**, WO 98/47367 A1, is in the German language. U.S. Patent No. 6,306,850 B1, which is cited herein as document **US31**, is believed to be the English language equivalent of FP5.

Document **FP6**, WO 03/07852 A2, is in the German language. U.S. Patent Publication No. 2005/0101639 A1, which was cited as document **US14** submitted in the Second Supplemental Information Disclosure Statement by Applicant filed August 31, 2009, is believed to be the English language equivalent of document FP6.

Copies of documents **FP3-FP6** and **NPL46-NPL57** are submitted. However, in accordance with 37 C.F.R. § 1.98(a)(2), no copies of U.S. patents and patent application publications cited on the attached IDS Forms are submitted.

In accordance with the Federal Circuit decision in *Dayco Prods., Inc. v. Total Containment, Inc.* 329 F.3d 1358 (Fed. Cir. 2003), Applicants submit herewith Office Actions from the following co-pending U.S. Patent Applications:

U.S. Patent Application No.10/518,669, filed July 21, 2005, as document **NPL54**;

U.S. Patent Application No.10/563,328, filed December 30, 2005, as document **NPL55**; and

U.S. Patent Application No.10/505,440, filed August 24, 2004, as documents **NPL56** and **NPL57**.

The identification of these Office Actions is not to be construed as a waiver of secrecy as to those applications now or upon issuance of the present application as a patent. The Examiner is respectfully requested to consider the cited applications and the art cited therein during examination.

It is respectfully requested that the Examiner initial and return a copy of the enclosed IDS Forms, and indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

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